Immigrants and
Public Benefits -
BBT Training
Housekeeping

**Mute:** As a reminder, all audience lines are muted. If you have a question or any technical issues, please use the chat feature.

**Participants’ View:** You may select Gallery View or Speaker View.

**Recording:** Today’s webinar is being recorded and will be made available.
Agenda

9:30-10:50 Immigration status, documents & Public Charge

11:00-12:00 Health Benefits & Immigrants

12:-1:00 Lunch

1:00-2:10 Cash & Nutrition Benefits

2:15-2:50 Housing and EA Shelter Benefits
Immigration Status and Documents - the ABC’s
Foreign-born population estimates, 2017

- Unauthorized immigrants: 10.5 million (23%)
- Lawful immigrants: 35.2 million (77%)
  - Naturalized citizens: 20.7 million (45%)
  - Lawful permanent residents: 12.3 million (27%)
  - Temporary lawful residents: 2.2 million (5%)
Citizens

- **BIRTH** in U.S. (including Puerto Rico & territories)
- **NATURALIZATION** (N-400 application after being a lawful permanent resident)
- **Acquire** or **Derive** citizenship (N-600 application based on being born to U.S. Citizen parent(s) abroad or adoption by U.S citizen parents)
Documents showing U.S. citizenship

- U.S. birth certificate
- U.S. passport or card
- Certificate of naturalization
- Certificate of citizenship
- U.S. Citizen Identity Card (form I-197)

...or document the U.S. citizenship of one’s parents/grandparents to show acquired or derived citizenship
Non-citizens - “immigrants”
Statute uses term “Aliens”

- The right to stay, work & qualify for benefits vary by status even when lawfully in U.S.

Lawful Permanent Resident

or

Temporary Lawful Residents
UNDOCUMENTED / UNAUTHORIZED

- A person with no lawful status or current valid documents = “undocumented” or “unauthorized to be in the U.S.”
Lawful Permanent Residents (LPR)

- Known as “green card” holder
- A necessary stepping stone to citizenship
- Have a legal right to live & work in U.S. and to travel, and have a “path to citizenship” after a certain # of years
- Subject to removal or deportation until obtaining U.S. citizenship
3 main ways people get “lawful permanent residence” or “get a green card” (=immigrate):

1) Family (immediate family only)
2) Employment
3) Humanitarian

Also known as: Blood, sweat & tears
**Humanitarian**

1) Refugees (processed overseas)
2) Asylees
3) Victims of trafficking

Refugees & asylees & victims of trafficking have a path to LPR and to Citizenship
A note on victims of trafficking

- Trafficking victims - brought to the U.S. by force, fraud or coercion - (relatives can qualify /be eligible for federal & federal/state benefits to the same extent as refugees)
- They have an HHS certification letter or are under 18 and in the process of seeking a “t” visa
Temporary Lawful Residents / “Non”-immigrant status

- Admitted to the U.S. for a limited period of time & for a specific purpose
  - 20+ categories: some common types include
    - B-2 visitors for pleasure (i.e. tourists)
    - F-1 students
  - Some categories offer a transition to LPR status (e.g. T or U)
Lawful Statuses

*(mostly humanitarian and many...)*

- Parolees (short-term or 1 year+)
- Withholding of removal (or deportation)*
- Battered spouses & children & victims of trafficking* or qualifying crimes
- Temporary Protected Status (TPS) beneficiaries
- Deferred Enforced Departure (DED) grantees
- Deferred Action grantees & “EVD” beneficiaries
- Deferred Action for Childhood Arrivals (DACA)
- Under Order of Supervision or Stay of Removal
- LTRs under old “amnesty program
- Certain beneficiaries of “prosecutorial discretion”

and others including applicants for a status, with or w/o work authorization

*“qualified aliens” for benefits purposes, along with “Cuban-Haitian Entrants”*
Note: moving on through the day, presenters will talk about which of these statuses qualify for which benefits, and will use terms such as qualified or PRUCOL, but those are not immigration statuses. i.e. PRUCOL = person residing under color of law

PRUCOL is not an immigration status and will not appear on any immigration document, but is used in determining benefits

PRUCOL: USCIS does not presently contemplate enforcing their departure. PRUCOL immigrants often have employment authorization (EAD) or some other proof of a granted immigration status or a pending status.

Some common examples - persons granted or with an application pending for Temporary Protected Status (TPS) or Deferred Action status, under Order of Supervision, with a pending application for Legal Permanent Residency, Asylum applicants, U Visa recipients and applicants (victims of violence) and others.
Noncitizen Documents

- “Green cards”

- Employment Authorization Document (EAD) [laminated]
  - EADs note the category or provision of law giving them work authorization

- I-94s (entry document / white card or electronic printout)
  - have annotations or stamps

- Other documents
  - HHS trafficking letter
  - court order / documents
  - visa stamps in foreign passport
  - Immigration judge order
  - Re-entry documents
  - others...
LPR documents

- "green" cards*
- I-551 passport stamps/visa
- reentry permits
- judge/court orders

*similar cards for LTRs
Sample LPR documents

“Green” Card

Temporary I-551
Immigrant Classification Codes - Sources

- U.S. State Department - Foreign Affairs Manual, 9 FAM 502.1-3 (Immigrant Classification Symbols)
  https://fam.state.gov/FAM/09FAM/09FAM050201.html

- USCIS Adjudicator’s Field Manual, Appendix 23-7 (Codes for Classes of Admission)
Refugee/asylee & related documents

- EAD work permits with code
- Asylum Office grant letters
- BIA/court orders – asylum & withholding
- I-94 annotations
Paroled alien documents

- EAD – check code reference
- I-94 – w/annotation [e.g. “212(d)(5)”]
- I-512 parole grant document
Some immigration documents apply to multiple statuses:

- Employment Authorization Document (EAD card)
  - (Forms I-688, I-688A, I-688B, I-776)
    *(note: codes come from 8 C.F.R. 274a.12)*

- Arrival/Departure Record
  - (Form I-94)

- USCIS Notice of Action
  - (Form I-797)
Sample EAD:
https://save.uscis.gov/web/media/resourcesContents/EAD_Code_Table.pdf
Common EAD codes

- (a)(3) refugee
- (a)(4) paroled
- (a)(5) asylee
- (a)(10) withholding
- (a)(16) granted T visa
- (c)(11) paroled
- (c)(25) T family member.
Sample I-94 card
(there are also electronic variations now)
Important I-94 annotations

- “212(d)(5) or “paroled” or “PIP”
- “refugee” or “207”
- “asylee” or “208”
- “T” 1-5 codes
Other documents to help determine status:

- I-797 receipt, including for a replacement of “green card” or other document
- Other immigration-related correspondence

Note:
to document status as “trafficking victim” – do not need ANY immigration document
Sample HHS trafficking victim letter

DEPARTMENT OF HEALTH & HUMAN SERVICES

ADMINISTRATION FOR CHILDREN AND FAMILIES
370 L'Enfant Promenade, S.W.
Washington, D.C. 20447

HHS Tracking Number
5555555555

Mr. Susan Doe
via Jim Thomas, Refugee Social Worker
Smith County Community Service Office
123 Main St.
Bellevue, WA 55555-5555

CERTIFICATION LETTER

Dear Mr. Doe:

This letter confirms that you have been certified by the Department of Health and Human Services (HHS) pursuant to section 102(c) of the Trafficking Victims Protection Act of 2000. Your certification date is ___________.

This certification is valid for eight months from the date of this letter. The expiration date is ___________.

With this certification, you are eligible for benefits and services under any Federal or State program or activity funded or administered by any Federal agency to the same extent as an individual who is admitted to the United States as a refugee under section 207 of the Immigration and Nationality Act, provided you meet other eligibility criteria. This certification does not confer immigration status.

You should present this letter when you apply for benefits or services. Benefit-issuing agencies should call the trafficking verification line at (202) 401-4310 to verify the validity of this document and to inform HHS of the benefits for which you have applied.

Sincerely,

Carel Clay-Thompson
Acting Director
Office of Refugee Resettlement
Social Security Cards & eligibility

Sample SSN w/o legend

Legended SSN
Public Charge
Recent Changes

- On March 9, 2021, the Trump-era Public Charge Rule was permanently ended (invalidated). As a result, the long-standing policy that was in place before the Trump-era public charge rule is back in effect.

- The policy in place is the narrower 1999 interim field guidance on the public charge inadmissibility. You can read this USCIS guidance here.

- On February 24, 2022 the Biden administration published a Notice of Proposed Rulemaking. The proposed regulation would largely codify the 1999 field guidance. Public comment will be accepted through April 25, 2022. Only after review of these comments is the Administration expected to publish the final regulation.

- Overarching message: Most immigrants who qualify for public benefits are safe to get them.
Public Charge (under ‘99 guidance)

- Test by immigration officials to determine if an immigrant will become a public charge ("primarily dependent on the government for subsistence")
- Officials look at a person’s “totality of circumstances” to determine if a person is likely to become a public charge
  - Includes: age, health, family and financial status, education and skills, expected immigration status/period of admission, affidavit of support
  - Use of certain benefits is only one piece of evidence that is considered
Who does Public Charge apply to?

Public charge rule is about “admissibility”...

...so, who needs to be “admitted” into the US?

- Applicants for Lawful Permanent Resident (LPR) status, i.e. green cards
- LPRs who leave U.S. for more than 180 days
- Applicants to enter U.S. (overseas visa applicants)

Note: the public charge rule does not apply to many immigrants and there are many exemptions
Public Charge Does NOT apply to everyone, including:

- LPRs applying for citizenship
- LPRs applying to renew green card
- Conditional LPRs seeking to remove conditions
- DACA/TPS renewals
- Many humanitarian statuses are exempt
  - Refugees, Asylees, U and T visas, VAWA, Temporary Protected Status (TPS), Special Immigrant Juveniles, and more
Which “Public Benefits” are considered?

Public Charge = “Primarily dependent on the government for subsistence, as demonstrated by either”:

- Public cash assistance for income maintenance (e.g. TANF, EAEDC, SSI)
  - Federal, state, local, or tribal are all counted
  - These cash assistance benefits do not include special non-recurring payments (like the pandemic Economic Impact Payments), or other cash programs that are not needs-based, such as Unemployment benefits

- or, Long term institutional care at government expense
  - Ex. Nursing home
Which “Public Benefits” are NOT considered?

It is SAFE to get benefits like MassHealth, public housing, and SNAP! These programs do not count as part of the Public Charge test. It is also safe to get Unemployment benefits, WIC benefits, Pandemic EBT and Health Connector subsidies (Advance Premium Tax Credits/ConnectorCare) - these benefits were never part of the Public Charge test. Many other types of benefits are also safe to get.

Many immigrants are eligible for comprehensive coverage from MassHealth or the Massachusetts Health Connector. There are also more limited health benefits available to undocumented immigrants. It is safe to apply for any health benefits for which you are eligible.
Which “Public Benefits” are NOT considered?

Healthcare:

- Medicaid (Any MassHealth)
- Emergency Medicaid (MassHealth Limited)
- Medicaid programs paid for with state-only funding
- MassHealth Family Assistance
- Health Safety Net
- Children’s Medical Security Plan (CMSP)
- Children’s Health Insurance Program (CHIP)
- Medicare

- Coverage through the Health Connector, including Connector Care
- COBRA
- Veterans Administration Coverage
- Head Start
- Tricare
- Public Health Services
- School-based healthcare
Which “Public Benefits” are NOT considered?

**Housing:**
- Ryan White Program benefits
- State housing including:
  - Family public housing (applied for through CHAMP)
  - Elderly/handicapped public housing (applied for through CHAMP)
  - MRVP
  - ARVP

- Federal housing, including:
  - Section 9 Federal Public Housing
  - Federal housing subsidies, Section 8
  - HOPWA
  - McKinney Homeless
  - Shelter Plus Care
  - Supportive Housing
  - HOME Rental Assistance
  - Low Inc. Housing Tax Credit
  - CDBGs
  - Sections 515 rural rental housing & 538 multi-family & Rural Housing Preservation grants
Which “Public Benefits” are NOT considered?

Food:
- SNAP
- WIC program
- Free school lunch/breakfast
- Food Banks

Earned Benefits:
- Social Security benefits
- Family Medical Leave Act (FMLA)
- Paid Family Medical Leave Act
- OASDI (old age survivor’s disability insurance)
- Unemployment, Veteran’s benefits, and Government pensions

Other Non-Cash Benefits:
- Child Care Vouchers
- Federal Pell Grants and other financial aid benefits
- Fuel Assistance (“LIHEAP”)
- Relief/FEMA grants
- Emergency Disaster

Benefits that are received...
- by other family members
- as a member of the military or spouse/child of one
Which “Public Benefits” are NOT considered?

COVID-19 Related:

- Testing/treatment
- Recovery Rebate/Stimulus Check
- Pandemic EBT
- Unemployment insurance - Including:
  - Pandemic Emergency Unemployment Compensation
  - Pandemic Unemployment Assistance
  - Pandemic Unemployment Compensation
- Sick Leave, Paid Leave
- Charitable Funds
- Food Banks
Public Charge
Venn Diagram

Immigrant is seeking to be “admitted” to the U.S. (and not exempt from public charge)

The benefit in question is one considered under the public charge test

Immigrant is eligible for the benefit in question

The use of the benefit in question may be weighed negatively against that individual**

**Keep in mind:

- The amount of negative weight attributed to the use of benefits will depend on the length of benefit use and how long ago the benefits were used.
- Use of benefits is only one factor that is considered and can be overcome by other positive factors (such as affidavit of support).
Removal based on public charge:

- Very rare!
- Requires receipt of cash benefits or institutionalization within 5 years of entry for causes existing before admission
- Government must:
  - Have legal right to repayment
  - Demand repayment
  - Get judgment or order & fail to collect
- In order to change this, the government would need a new Department of Justice regulation that must go through a notice and comment process
- For now, this is not something to worry about
Key Takeaways

- Immigrants should NOT be advised to go off essential safety-net benefits without a careful examination of the type, timing and amount of the benefit and assessment of their immigration status and other public charge factors that may apply.
  - In other words, most immigrants should feel safe applying to public benefits for which they qualify
  - Especially true considering that avoiding benefits does NOT mean the client will pass the public charge test
- Community health for all of us depends on strong access to healthcare for everyone who is eligible for it
Protecting Immigrants Families Campaign (PIF)

- National Campaign: www.protectingimmigrantfamilies.org
- Massachusetts campaign (PIF-MA): Email us at pif@miracoalition.org
- More info: www.masslegalservices.org/publiccharge
Take Action!

- At this stage, the PIF network is focused on building a strong record of support for the proposed regulation, while also making targeted suggestions for discrete improvements. Comment due April 25
- PIF will have a sign-on comment for state, local and national organizational endorsements. MA PIF will help disseminate this comment
- PIF will have a petition for individuals who wish to endorse the regulation
- State/local government agencies are encouraged to submit comments
Thank you

Questions? Email mparedes@mlri.org